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EXAMINER

BELIVEAU, SCOTT E

ART UNIT PAPER NUMBER

2623

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/904,409	<b>Applicant(s)</b> SCHRADER ET AL.	
	<b>Examiner</b> Scott Beliveau	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2006-02-06</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Miscellaneous*

1. Please note that the examiner of record for this application has changed to Scott Beliveau.
2. Please note that the examination Art Unit for this application has changed to Art Unit 2623.

### *Priority*

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e). The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/273,139, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In particular, applicant's added limitations corresponding to the particular addition or usage of priority levels wherein information is distributed in accordance with the order of priority is not disclosed in the earlier filing. Accordingly, the application is being examined based upon its filing date of 12 July 2001.

*Drawings*

4. The drawings contain several errors associated with missing elements, inconsistent labels/designations between the drawings and the specification, etc. While the examiner has attempted to identify all of these inconsistencies, the particularly noted objections should not be construed as exhaustive. Applicant's cooperation is requested in correcting any further errors of which applicant may become aware of in the drawings.
5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the particular step of "assigning a priority level to each of the indicators" whereupon the system delivers information based on the assigned priority level must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

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“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- 202, 214, 220, and 226 (Figure 2);
- 451 (Figure 4);
- 820 (Figure 8);
- 1300b, 1320b, and 1360b (Figure 13b);
- 1410, 1420, and 1430 (Figure 14).

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- “server 240” (Page 9, Line 16);
- “communication channel 221” (Page 13, Line 12);
- “Movies Service Provider 404”, “Music Service Provider 406”, and “News Service Provider 408” (Page 19, Lines 18-19);
- “Other Service Providers 402” (Page 20, Line 11) (Element “402” is associated with various service providers as illustrated in Figure 4; however, none of these appear to be designated as “other”).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

8. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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9. The disclosure is objected to because of the following informalities:

- reference to “server” 112” and “server 212” (Page 13, Lines 8-9) appear to be referring to “server 114” and “server “214” as illustrated in Figures 1 and 2 respectively;
- reference to “first digital tuner . . . 524” (Page 26, Lines 4-5) and “additional tuner 526” (Page 26, Line 10 and 15) should refer to elements “516” and “518” respectively;
- reference to “FIG. 17” should refer to “FIG. 16” in order to be consistent with the Figure designations (Page 50, Line 5; Page 51, Line 2).

Appropriate correction is required.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Double Patenting***

11. Applicant is advised that should claim 2 be found allowable, claim 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. The particular distribution of information “in [a] second broadcast channel” versus “over a second broadcast channel” is

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construed as covering the same thing since sending something over a channel appears or is considered by the examiner as same as sending it in the channel. See MPEP § 706.03(k).

***Claim Objections***

12. Claim 3 is objected to because the phrase “the second broadcast channel” lacks antecedent basis. For the purpose of examination, it shall be presumed to refer to “a second broadcast channel”. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).



15. Claims 1-11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US Pat No. 6,536,041), in view of Rasson et al. (US Pat No. 6,137,549), and in further view of Simonin (US Pat No. 6,049,824).

In consideration of claim 1, the Knudson et al. reference discloses a “method for delivering enhanced broadcast television content”. The method comprises “creating a plurality of indicators associated with events that occur in selected ones of the plurality of television programs” which serve to indicate categories of information derived from the real-time data sources [30], “assigning an identifier to at least one of the indicators” or program guide listings which “associates said at least one indicator with a respective one of said plurality of television programs”, “delivering the plurality of television programs over a third broadcast channel” [50] and “delivering the at least one indicator and associated identifier to at least one client system” (Figures 9-12; Col 5, Lines 48-52; Col 6, Lines 26-43; Col 11, Line 54 – Col 12, Line 48).

The reference, while disclosing the particular usage of updating intervals and corresponding expiration times for different types of real-time data or “indicators associated with events” (Col 17, Lines 26-45), is silent with respect to “assigning a priority level to each of the indicators” and “delivering at least one indicator and associated identifier to at least one client system based on the assigned priority level of the at least one indicator”. In an analogous art pertaining to the field of interactive video distribution, the Rasson et al. reference discloses techniques for the prioritization of distribution of data associated with programming guides. In particular, the reference discloses “assigning a priority level to each” of the pieces of programming guide information and subsequently “delivering . . . to at

least one client system based on the assigned priority level” based upon a number of factors including expiration time of the messages (Figures 3 and 5; Col 6, Lines 1-40; Col 8, Lines 8-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Knudson et al. so as to “assign a priority level to each of the indicators” and “deliver at least one indicator and associated identifier to at least one client system based on the assigned priority level of the at least one indicator” for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63).

With respect to the limitation associated with “receiving a plurality of television programs over a first broadcast channel”, the combined references are silent with respect to the origin of the television programs delivered to the client terminals such that they are “received . . . over a first broadcast channel” by a main distribution facility. In an analogous art pertaining to the field of video distribution systems, the Simonin reference provides evidence that it is conventionally known for a main-headend or facility to “receive a plurality of television programs over a first broadcast channel” associated with the network feeds for subsequent redistribution (Col 1, Lines 13-41). As illustrated in Figure 1, Simonin illustrates a satellite antenna [112] which receives data from a “first broadcast channel” associated with satellite distribution of the network feed and discloses the particular usage of such in conjunction with the ability to insert customized content at local distribution facilities (Col 4, Lines 13-67). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined references so as to “receive a plurality of television so as to employ the particular television distribution architecture of

Simonin for the purpose of advantageously providing a signal distribution architecture which further allows for the local modification of an information signal (Simonin: Col 1, Lines 43-62).

Claim 2 is rejected wherein “delivering the at least one indicator and associated identifier includes transmitting to the at least one client system the at least one indicator and associated identifier over a second broadcast channel” (Knudson et al.: Col 6, Lines 37-52).

Claim 3 is rejected wherein “delivering said at least one indicator and associated identifier includes transmitting to the at least one client system the at least one indicator and associated identifier in [a] second broadcast channel” (Knudson et al.: Col 6, Lines 37-52).

Claim 4 is rejected wherein “each priority level corresponds to a time at which the at least one indicator is to be transmitted to said at least one client system” (Rasson et al.: Col 8, Lines 8-42).

Claim 5 is rejected wherein “said identifier is a unique event identifier associated with a televised sporting event” (Knudson et al.: Col 17, Line 64 – Col 18, Line 30).

Claim 6 is rejected wherein “said indicators correspond to real-time events occurring in one of a plurality of televised sporting events” such as those corresponding to scoring events (Knudson et al.: Col 17, Line 64 – Col 18, Line 30).

Claim 7 is rejected wherein “at least one of said indicators corresponds to a delivery of an alert that an event is about to occur in one of said televised sporting events” (Knudson et al.: Col 10, Lines 43-54). For example, Figure 7 illustrates an example of an alert which informs the user that the “Pistons At Hornets” game is about end.

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Claim 8 is rejected wherein “said alert is a tunable alert” should the game be available to the subscriber (Knudson et al.: Col 10, Line 62 – Col 11, Line 4; Col 14, Lines 14-27).

Claim 9 is rejected wherein “said alert is capable of invoking an action when delivered to the at least one client system” such as the user deciding to tuning to watch the particular remainder of the program (Knudson et al.: Col 10, Line 62 – Col 11, Line 4; Col 14, Lines 14-27).

Claim 10 is rejected wherein “said plurality of televised sporting events correspond to broadcast televised football programming” (Knudson et al.: Figure 13).

Claim 11 is rejected wherein “at least one of said indicators corresponds to sports television programming currently in progress” (Knudson et al.: Figure 13).

In consideration of claim 13, Knudson et al. discloses that any suitable program listing information may be combined with any suitable real-time information (Col 9, Lines 26-29) and that program listings further include movies [64] (Figure 2). The reference, however, does not provide an explicit example of the usage of real-time information and “televised movies”. However, it would have been obvious to one having ordinary skill in the art such that the “said identifier is a unique event identifier associated with one of a plurality of televised movies” for the purpose of advantageously providing real-time data to supplement other types of program listings data including televised movies.

Claim 14 is rejected wherein “said identifier is a unique event identifier associated with a televised news item” (Knudson et al.: Col 5, Lines 53-56).

16. Claims 15-26 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US Pat No. 6,536,041) in view of Rasson et al. (US Pat No. 6,137,549).

In consideration of claim 15, the combined teachings of Knudson et al. and Rasson et al. discloses a “method for creating a data stream associated with televised sporting events”. Knudson et al. discloses “generating first event-based content associated with a first one of a plurality of televised sporting events” such as information corresponding to frequently updated information (ex. scoring events) and “generating second event-based content associated with a second one of a plurality of televised sporting events” such as information corresponding to infrequently updated information (ex. team notes for the game) wherein both the “first” and “second event-based content” are associated with a respective “first” and “second event identifier” serving to identify the particular type of content/data (Knudson et al.: Figures 20 and 22). The reference, however, is silent with respect to the particular packetization and assignment of prioritization information in association with the distribution of the associated content.

In an analogous art pertaining to the field of interactive video distribution, the Rasson et al. reference discloses a system and method for the prioritized delivery based upon the expiration time associated with the data. In particular, the reference teaches “creating data packets” [78], “assigning . . . priorities” to the corresponding packets based upon factors including expiration time, “determining whether the first priority is greater than the second priority”, “inserting the . . . data packets into the data stream” in order of priority and “sending the data stream to a client system” (Col 8, Lines 8-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Knudson et al. using the teachings of Rasson et al. so as to “assign a first priority to said first event-based content”, “create a first data packet including the first event-based

content and the first event identifier”, “assign a second priority to the second event-based content, the second priority being different from the first priority”, “create a second data packet including the second event-based content and the second event identifier”, “determine whether the first priority is greater than the second priority”, “insert the first data packet and the second data packet into the data stream when the first priority is greater than the second priority; and sending the data stream to a client system” in light of the teachings of Rasson et al. for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63).

Claim 16 is rejected in light of the aforementioned combination of references which taken in combination discloses a “television broadcast service providing dynamic information associated with a plurality of broadcast television programs concerning sporting events”. As illustrated in Figure 1, Knudson et al. illustrates a “broadcast center” [40] for “collecting a multiplicity of live data feeds associated with the sporting events” (Col 5, Line 53 – Col 6, Line 9), an “event producer” [22], and a “content aggregator cascaded with the event producer” [22] for “aggregating the output data feeds from the event producer, generating a stream of broadcast content based on the aggregated data feeds, and sending the stream of broadcast content based on the aggregated data feeds to a client system” [48] (Figure 11; Col 6, Lines 26-43). As aforementioned, the reference is silent with respect to the particular formatting of the data feeds based upon levels of priority.

The reference, while disclosing the particular usage of updating intervals and corresponding expiration times for different types of real-time data or “data feeds” (Col 17, Lines 26-45), is silent with respect to the prioritization, sorting, and subsequently outputting

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the sorted feeds. In an analogous art pertaining to the field of interactive video distribution, the Rasson et al. reference discloses techniques for the prioritization of distribution of data associated with programming guides. In particular, the reference discloses “assigning . . . one of a set of priority attributes” (ex. higher priority or lower priority), “formatting the data . . . for a one-way broadcast transmission” of the data to the local distribution node (Col 7, Line 66 – Col 8, Line 7), “sorts the data . . . according to their assigned priority attributes, and outputs the sorted data” (Figures 3 and 5; Col 6, Lines 1-40; Col 8, Lines 8-42).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Knudson et al. “event producer” [22] so as to “assign each of the data feeds one of a set of priority attributes, format the data feeds for a one-way broadcast transmission, sort the data feeds according to their assigned priority attributes, and output the sorted data feeds” for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63).

Claim 17 is rejected wherein the “broadcast content comprises real-time event notifications associated with the plurality of broadcast sporting events” such as those corresponding to scoring (Knudson et al.: Col 17, Line 64 – Col 18, Line 30).

Claim 18 is rejected wherein the “broadcast content comprises alert notifications associated with the plurality of broadcast sporting events” (Knudson et al.: Col 10, Lines 43-54). For example, Figure 7 illustrates an example of an alert which informs the user that the “Pistons At Hornets” game is about end.

Claim 19 is rejected wherein the “alert notifications are tunable alert notifications” should the game be available to the subscriber (Knudson et al.: Col 10, Line 62 – Col 11, Line 4; Col 14, Lines 14-27).

Claim 20 is rejected wherein the “alert notifications are capable of invoking an action when delivered to the client system” such as the user deciding to tuning to watch the particular remainder of the program (Knudson et al.: Col 10, Line 62 – Col 11, Line 4; Col 14, Lines 14-27).

In consideration of claim 21, as aforementioned, the Knudson et al. reference discloses that the particular data feeds are associated with varying expiration values which correspond to their useful life (Figure 20; Col 17, Lines 26-52). As illustrated, the available information may correspond to “dynamic content” (ex. event updates), “in progress programming” information (ex. score updates), “relatively static content” (ex. team notes or league schedules), and “other content” (ex. game recap or league scores). As illustrated, these different types of content are associated with different expiration times. As aforementioned, the Rasson et al. teaches assigning priority to data based upon a number of criteria including expiration time of the data. Accordingly, the limitation is considered met in light of the combined references such that the “set of priority attributes includes four priority levels representing a high priority for dynamic content, a fast priority for in progress programming, a low priority for relatively static content, and a normal priority for other content” in accordance with the particular assignment of different levels of priority to the different types of content.



Claim 22 is rejected wherein the “event producer is capable of generating event log indices for at least one of the plurality of television programs, encapsulating the event log indices, and inserting the same into the data stream” in association with the particular generation and distribution of game recaps/highlights (Knudson et al.: Col 18, Lines 8-11).

In consideration of claim 23, as aforementioned, the combined references disclose a “system for delivering enhanced broadcast television content”. In particular, Figure 1 of the Knudson et al. reference discloses a “data provider” [22/30] that is “disposed to create a first and second dynamic content” corresponding to real-time information that is “associated with at least one of a plurality of broadcast television programs”, to “assign an event identifier to each of the first and second dynamic content associating the dynamic content to one of the plurality of television programs” (Figure 10) and to “deliver the . . . first and second dynamic content together with the event identifiers as data stream” to a “broadcast server” [26] (Figure 11). The “broadcast server” [26] is subsequently “disposed to receive the data stream and to provide the data stream to one or more client systems” [48].

The reference, while disclosing the particular usage of updating intervals and corresponding expiration times for different types of real-time data or “dynamic content” (Col 17, Lines 26-45), is silent with respect to the prioritization, sorting, and subsequently delivery based upon the sorted data content. In an analogous art pertaining to the field of interactive video distribution, the Rasson et al. reference discloses techniques for the prioritization of distribution of data associated with programming guides. In particular, the reference discloses “assigning a first priority to [a] first . . . content and a second priority to [a] second . . . content, the first priority being different from the second priority” based upon

the particular expiration times of the information (ex. higher priority or lower priority), “sorting the first and second data . . . based on the assigned first and second priorities”, and “delivering the sorted first and second dynamic content . . . as a data stream” to a broadcast center (Figures 3 and 5; Col 6, Lines 1-40; Col 8, Lines 8-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Knudson et al. “data provider” [22/30] so as to further “assign a first priority to the first dynamic content and a second priority to the second dynamic content, the first priority being different from the second priority, to sort the first and second data content based on the assigned first and second priorities, and to deliver the sorted first and second dynamic content together with the event identifiers as a data stream” for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63).

Claim 24 is rejected wherein the “data provider” [22/30] “creates an enhanced schedule of television programs including one or more program entries having an associated event identifier” [168] (Knudson et al.: Figure 10)

Claim 25 is rejected wherein the “broadcast server receives the enhanced schedule of television programs from the data server provider, matches each of the program entries with local data including a tuner position and time slot appropriate for a given location, and provides the enhanced schedule and local data to one or more client systems” (Knudson et al.: Figure 10).

Claim 26 is rejected wherein the “data provider creates dynamic content associated with televised sporting events” (Knudson et al.: Col 5, Lines 53-56).

Claim 28 is rejected wherein the “data provider creates dynamic content associated with televised news items” (Knudson et al.: Col 5, Lines 53-56).

In consideration of claim 29, Knudson et al. discloses that any suitable program listing information may be combined with any suitable real-time information (Col 9, Lines 26-29) and that program listings further include movies [64] (Figure 2). The reference, however, does not provide an explicit example of the usage of real-time information and “televised movies”. However, it would have been obvious to one having ordinary skill in the art such that “the data provider creates dynamic content associated with televised movies” so as to advantageously provide real-time data to supplement other types of program listings data including televised movies.

Claim 30 is rejected as aforementioned in light of the combined references which disclose a “method for delivering broadcast television programming related to sporting events and associated enhanced content”. The method comprises “receiving broadcast television programming relating to sporting events” by the set-top terminal (Knudson et al.: Figure 7) and “generating a first dynamic content concerning an occurrence of a first event in the broadcast television programming” such as that content associated with a scoring event and “generating a second dynamic content concerning another occurrence of a second event in the broadcast television programming” such as that content associated with game summary information. The method subsequently “assigns a first event identifier to the first dynamic content associating the first dynamic content to a first program in the broadcast television programming to create a tunable alert” and “assigns a second event identifier to the second dynamic content associating the second dynamic content to a second program in the

broadcast television program” (Knudson et al.: Figure 10; Col 14, Lines 14-27). As illustrated in Figures 7 and 13, the method involves “delivering the tunable alert together with at least a portion of the broadcast television programming to one or more client devices” [48] through the television distribution facility [26] such that the client can subsequently interact with the data so as to view programming as desired. For example, the “first dynamic content” and first program” may correspond to scoring information for the ‘Nets at Hawks’ game and the “second program” and corresponding “second dynamic content” may correspond to summary information for the ‘Pistons at Hornets’ game.

The reference, while disclosing the particular usage of updating intervals and corresponding expiration times for different types of real-time data or “dynamic content” (Col 17, Lines 26-45), is silent with respect to the prioritization and subsequent distribution of content based priorities. In an analogous art pertaining to the field of interactive video distribution, the Rasson et al. reference discloses techniques for the prioritization of distribution of data associated with programming guides. In particular, the reference discloses “assigning a first priority” to a first content and “assigning a second priority lower than the first priority” to data based upon its expiration time and subsequently “after delivering . . . [the first data], then delivering the second [data] to the one or more client devices” [44] (Figures 3 and 5; Col 6, Lines 1-40; Col 8, Lines 8-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the distribution techniques of Knudson et al. so as to further “assign a first priority to the tunable alert; assign a second priority lower than the first priority to the second event identifier; and . . . after delivering the tunable alert, then delivering the second event

identifier to the one or more client devices” for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63).

Claim 31 is rejected wherein the method further “creates a listing of a plurality of sporting events” such as programming guide data [24] (Knudson et al.: Figure 1), “assigns a third event identifier to at least respective ones of the sporting events to create an enhanced sports television schedule” wherein a “third event identifier” may correspond to other types of sporting related dynamic content including event updates and “delivers the enhanced sports television schedule to the one or more client devices” [48] whereupon the subscriber can subsequently access the information (Knudson et al.: Figure 23).

Claim 32 is rejected wherein the method further “periodically updating the enhanced sports television schedule; and delivering an updated enhanced sports schedule to the one or more client devices” (Knudson et al.: Figure 12).

17. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US Pat No. 6,536,041), in view of Rasson et al. (US Pat No. 6,137,549), in view of Simonin (US Pat No. 6,049,824), and in further view of Ellis (US Pub No. 2005/0227611 A1).

In consideration of claim 12, Knudson et al. discloses that any suitable program listing information may be combined with any suitable real-time information (Col 9, Lines 26-29). The reference, however, is silent with respect to the particular distribution of “televised music events”. In an analogous art pertaining to video distribution systems, the Ellis et al. reference discloses the particular existence of program listings which include “televised music events” (Figures 6 and 7 A/B). Accordingly, it would have been obvious to one

having ordinary skill in the art at the time the invention was made so as to modify Knudson et al. so as to provide “televised music events” as taught by Ellis et al. and to further advantageously provide real-time data to supplement those program listings for the purpose of providing users with additional services including music listings in a manner in which the user is further operable to listen to one music channel while viewing music information for another (Ellis et al.: Para. [0005] and [0006]).

18. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US Pat No. 6,536,041), in view of Rasson et al. (US Pat No. 6,137,549), and in further view of Ellis (US Pub No. 2005/0227611 A1).

Claim 27 is rejected as aforementioned. In particular, Knudson et al. discloses that any suitable program listing information may be combined with any suitable real-time information (Col 9, Lines 26-29). The reference, however, is silent with respect to the particular distribution of “televised music events”. In an analogous art pertaining to video distribution systems, the Ellis et al. reference discloses the particular existence of program listings which include “televised music events” (Figures 6 and 7 A/B). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Knudson et al. so as to provide “televised music events” as taught by Ellis et al. for the purpose of providing users with additional services including music listings in a manner in which the user is further operable to listen to one music channel while viewing music information for another (Ellis et al.: Para. [0005] and [0006]) and to further modify the “data provider” of Knudson et al. so as to “create dynamic content associated with televised

music events” so as to advantageously provide greater flexibility in the variety of real-time data used to supplement other types of program listings.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Shimomura et al. (US Pat No. 6,526,580) reference discloses a broadband data broadcasting system.
- The Wagner et al. (US Pat No. 5,761,602) reference discloses a system and apparatus for the distribution of content via a hybrid transmission system based upon the information priority.
- The Watts et al. (US Pat No. 6,324,694) reference discloses a system and method for receiving/presenting supplemental content alongside primary content/programming.
- The Menard et al. (US Pat No. 6,810,526) reference discloses a system and method for monitoring broadcast channels and alerting the user when information of interest is found.
- The Blackwell et al. (US Pat No. 6,085,253) reference discloses a system and method for transmitting and receiving data over a plurality of paths based upon the information priority.

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- The Shoff et al. (US Pat No. 6,240,555) reference discloses a system and method for providing supplemental content together with video programs.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SEB  
April 24, 2006

Scott Beliveau  
Examiner  
Art Unit 2623